

OCT-06-2004 WED 04:07 PM STREETS & STEELE

FAX NO. 713 939 9508

P. 01/11

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Patents, Trademarks,
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Unfair Competition,
Technology Development,
Computer and Internet Law

Date: October 6, 2004

To: Mail Stop Issue Fee Art Unit: 3731
USPTO

Facsimile: 703-746-4000 **Telephone:**

From: Streets & Steele **Our Deposit Account Log No.:** 1019
Debi Labay **Our Ref:** CARA/0013

Pages: 11 (with cover)

Message:

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<i>10/6/04</i> Date	<i>Debi Labay</i> Signature

Attached please find the following documents for the above referenced patent application:

- 1) Resubmittal of Issue Fee Transmittal and Comments on Statement of Reasons for Allowance [2 pages]; and
- 2) copies of previous submission via facsimile of Transmittal Form, Comments on Statement of Reasons for Allowance, and USPTO Issue Fee Transmittal Form PTOL-85 with fax cover sheet and confirmation of facsimile transmittals [8 pages].

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Patent
Atty. Dkt. No. CARA/0013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**IN RE APPLICATION OF:
Cesar C. Carriazo

SERIAL NO. 10/002,639

FILED: October 24, 2001

FOR: Aspherical Positioning Ring

§ CONFIRMATION NO.: 1980
§
§
§ EXAMINER: Daniel J. Davis
§
§
§ GROUP ART UNIT: 3731
§
§ VIA FACSIMILE: 703-746-4000Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

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10/6/04 Date	<i>Daniel J. Davis</i> Signature

**RESUBMISSION OF ISSUE FEE TRANSMITTAL AND COMMENTS ON
STATEMENT OF REASONS FOR ALLOWANCE**

The following document(s) were submitted to the Mail Stop Issue Fee via facsimile number 703-746-4000 on July 13, 2004, in response to the Notice of Allowance mailed on June 30, 2004:

1. Fax cover sheet;
2. Transmittal Form;
3. USPTO Issue Fee Transmittal Form PTOL-85; and
4. Comments on Statement of Reasons for Allowance.

The PAIR system contains no acknowledgement that such documents were received. Additionally, recent telephone calls to the USPTO have failed to confirm that such documents were received. In the interest of ensuring that the subject application proceeds to issuance in a timely manner, these documents are therefore being resubmitted via facsimile and accompany this cover letter.



Patent
Atty. Dkt. No. CARA/0013

The undersigned hereby attests on a personal knowledge basis that a response to the Notice of Allowance was timely filed via facsimile. Also attached is a copy of the fax confirmations indicating transmission and receipt (i.e., auto-reply from the USPTO) of the facsimile transmittal July 13, 2004. As shown on the fax cover sheet, Applicant transmitted the required Issue Fee Transmittal for PTOL-85 along with the Transmittal Form and Comments on Statement of Reasons for Allowance on that date.

In the event that this resubmission is not considered proper or timely, the reader is respectfully requested to contact the undersigned attorney for the Applicant at the telephone number indicated above.

In the event that any fees are incurred by this resubmission, the Commissioner is hereby authorized to charge Deposit Account No. 50-0714/CARA/0013 for such fees.

Respectfully submitted,

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Patents, Trademarks,
Copyrights, Licensing,
Trade Dress, Trade Secrets,
Unfair Competition,
Technology Development,
Computer and Internet Law

Date: July 13, 2004

To: USPTO

Art Unit: 3731

Facsimile: 703-746-4000

From: Streets & Steele
Debi Labay

Our Deposit Account Log No.: 0714
Our Ref: CARA/0013

Pages: 6 (with cover)

Message:

CERTIFICATE OF TRANSMISSION 37 C.F.R. 1.8	
I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents to the fax number indicated on the Office Action, to the attention of the named Examiner, on the date below:	
Date 7/13/04	Signature <i>Debi Labay</i>

Attached please find the following documents for the above referenced patent application:

- 1) Transmittal Form;
- 2) Comments on Statement of Reasons for Allowance; and
- 3) USPTO Issue Fee Transmittal, Form PTOL-85.

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OCT 08 2004 WED 04:09 PM STREETS & STEELE

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P. 05/11

PTO/SB/21 (02-04)

Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/002,639	
	Filing Date	October 24, 2001	
	First Named Inventor	Cesar C. Carriazo	
	Art Unit	3731	
	Examiner Name	Daniel J. Davis	
Total Number of Pages in This Submission	6	Attorney Docket Number	CARA/0013

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Steven L. Christian
Signature	<i>Steven L. Christian</i>
Date	July 13, 2004

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Typed or printed name	Debi Labay
Signature	<i>Debi Labay</i>
Date	July 13, 2004

This collection of information is required by 37 CFR 1.9. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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P. 07/11

Patent
Atty. Dkt. No. CARA/0013

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

Cesar C. Carriazo

SERIAL NO. 10/002,639

FILED: October 24, 2001

FOR: Aspherical Positioning Ring

§ EXAMINER: Daniel J. Davis

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GROUP ART UNIT: 3731

CONFIRMATION NO. 1980

Mail Stop Issue Fee
Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Applicant files this response to the Notice of Allowability dated June 30, 2004, in order to have its comments on the Examiner's statement of reasons for allowance entered into the record. In particular, the Applicant respectfully traverses the Examiner's stated conclusion that: "the only illustrated embodiment disclosed by applicant as having both 'an aspherical inferior engaging surface and an aspherical superior engaging surface' is the embodiment of Figs. 8A-1 and 8A-2." *Notice of Allowability, para. 2*. This conclusion was apparently reached because the Examiner has reasoned that "a curved bevel" surface of some presumed width is required by the term "aspherical" as applied in the claims. *Id.*

The Applicant respectfully submits that the Examiner has misconstrued the term

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Atty. Dkt. No. CARA/0013

"aspherical." Instead of being limited to a curved bevel surface of some presumed width, the phrases "aspherical inferior engaging surface" and "aspherical superior engaging surface" are intended to read on an infinite number of surfaces that lie on an "aspherical" shape. Such surfaces need not be planar, or exhibit any particular widths, and may in fact be substantially linear as shown in the various edge-like surfaces of certain of the drawings. Thus, the allowed claims are submitted to cover the other disclosed embodiments (Figures 8B, 8C, and 8D) of the present specification. Particular reference is made to the following passages from the specification (with emphasis added):

Figure 8A shows the preferred embodiment of the invention providing a superior engaging surface 103 having a non-circular plane section (e.g., ovoid, elliptical, oval) for gripping the corneal region having a similar non-circular plane section. ... By beveling the inner wall of a suction ring having a circular outer wall ...
(Page 10, lines 12-17.)

Alternatively, as shown in Figure 8B, the superior engaging surface 103 of the suction ring could be formed in a non-circular shape, having an equal suction ring thickness around the circumference of the superior engaging surface, i.e., not beveled, while still providing a close fit between the superior engaging surface and the astigmatic corneal region.
(Page 11, lines 12-16.)

It is therefore clear that the claimed "engaging surface(s)" of the present invention are intended to cover surfaces resulting from "non-circular plane sections" (e.g., beveled inner walls) as well as "non-circular shapes" (e.g., non-beveled, edge-shaped inner walls). In fact, even Figure 8A-2 shows the aspherical inferior and superior engaging surfaces 101, 103 as being non-beveled edges in the section illustrated by that figure. More particularly, Figures 8C-1 and 8C-2 show an embodiment wherein neither of the aspherical engaging surfaces employs a beveled, or non-circular plane section,

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but nevertheless are aspherical in shape (see, e.g., differing imaginary radius curves in the two sections depicted by the figures).

In summary, the Applicant submits that the scope of the allowed claims properly extends to encompass each of the embodiments of Figures 8A-8D, as well as other embodiments (disclosed and undisclosed) that employ aspherical engaging surfaces in the sense claimed. The Examiner is therefore invited to reconsider his statement for reasons of allowance.

Respectfully submitted,

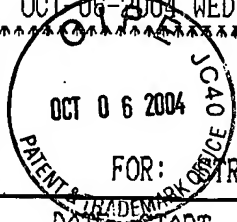


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P. 10/11



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713 939 9508

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